IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.1218 OF 2003
IN
SUIT NO.1192 OF 2003

Vishwanath N.Nadkarni and Ors. ..Plaintiffs

Vs.

Recovery Officer DRT-II Mumbai & Anr..Defendants

Mr.Jai Chinoy a/w Mr.Rajiv Narula and Ms.Sonal and Dasgupta i/b Jhangiani Narula & Associates for the plaintiffs

Mr.S.M.Gorwadkar i/b Bhave and Co. for the defendants

CORAM : S.U.KAMDAR, J
DATED : 17TH OCTOBER, 2005

P.C.:

1. The learned counsel for the plaintiffs states that without prejudice to his rights and contentions in the matter, plaintiff no.1 will deposit a sum of Rs.5.0 lacs within one month from today and further sum of Rs.5.0 lacs within 6 months thereafter.

2. In my opinion in the present case, there is a serious dispute as to the validity of a Gift Deed which is supposed to have been executed in favour

of plaintiff no.2 and 3 by the plaintiff no.1. These issues are required to be tried and in the mean time defendants cannot be permitted to dispose of the flat in execution of the said recovery proceeding pursuant to recovery certificate issued by the DRT. Thus, if the plaintiff deposits the aforesaid amount there shall be an interim order and injunction restraining the defendants from in any manner executing the said recovery certificate against flat no.A-1/5 Samruddhi Co-operative Housing Society, Baburao Parulekar Marg, Dadar (West), Mumbai 400 028. However, the defendants will be entitled to execute the said recovery certificate against other assets of plaintiff no.2 and 3, if any. In the event if the amount is not so deposited as per the undertaking motion to stand dismissed and interim order granted in this order to stand vacated without recourse to the court. Motion disposed of accordingly.